

**CITY OF AUSTIN, TEXAS**

(A political subdivision and municipal corporation of  
the State of Texas located within Travis and Williamson Counties)

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**PUBLIC PROPERTY FINANCE CONTRACTUAL OBLIGATIONS  
SERIES 2009**

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**PURCHASE AGREEMENT**

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August \_\_, 2009

Honorable Mayor and City Council  
City of Austin, Texas  
700 Lavaca Street  
Austin, Texas 78701

Ladies and Gentlemen:

The undersigned, J.P. Morgan Securities Inc. (the “*Representative*”), acting on its own behalf and on behalf of the other underwriters listed on Schedule I hereto (collectively, the “*Underwriters*”) and not acting as a fiduciary or agent for the City of Austin, Texas (the “*Issuer*”), offers to enter into the following agreement (this “*Agreement*”), which upon the Issuer’s written acceptance of this offer, will be binding upon the Issuer and upon the Underwriters. This offer is made subject to the Issuer’s written acceptance hereof on or before 10:00 p.m., Austin, Texas time, on August \_\_, 2009 and, if not so accepted, will be subject to withdrawal by the Underwriters upon notice delivered to the Issuer at any time prior to the acceptance hereof by the Issuer. Terms not otherwise defined in this Agreement shall have the same meanings set forth in the Ordinance (as defined herein) or in the Official Statement (as defined herein).

**1. Purchase and Sale of the Obligations.** Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriters hereby agree to purchase from the Issuer, and the Issuer hereby agrees to sell and deliver to the Underwriters, all, but not less than all, of the Issuer’s \$\_\_\_\_\_ City of Austin Public Property Finance Contractual Obligations, Series 2009 (the “*Obligations*”). Inasmuch as this purchase and sale represents a negotiated transaction, the Issuer understands, and hereby confirms, that the Underwriters are not acting as a fiduciary of the Issuer, but rather are acting solely in their capacity as underwriters for their own accounts. The Representative has been duly authorized to execute this Agreement and to act hereunder.

The principal amount of the Obligations to be issued, the dated date therefor, the maturities, redemption provisions and interest rates per annum are set forth in Schedule II hereto. The Obligations shall be as described in, and shall be issued and secured under and pursuant to

the provisions of, an ordinance adopted by the Issuer's City Council on August \_\_, 2009 (the "*Ordinance*").

The purchase price for the Obligations shall be \$\_\_\_\_\_ (representing the par amount of the Obligations, plus a net reoffering premium of \$\_\_\_\_\_ and less an underwriting discount of \$\_\_\_\_\_), plus accrued interest on the Obligations, calculated on the basis of a 360-day year of twelve 30-day months, from the dated date of the Obligations to the date of the Closing (as hereinafter defined).

Delivered to the Issuer herewith is the Representative's good faith corporate check payable to the order of the Issuer in the amount of \$\_\_\_\_\_ (the "*Check*"). In the event the Issuer accepts this offer, the Check shall be held uncashed by the Issuer until the time of Closing, at which time the Check shall be returned uncashed to the Representative. In the event that the Issuer does not accept this Agreement, the Check shall be immediately returned to the Representative. Should the Issuer fail to deliver the Obligations at the Closing, or should the Issuer be unable to satisfy the conditions of the obligations of the Underwriters to purchase, accept delivery of and pay for the Obligations, as set forth in this Agreement (unless waived by the Underwriters), or should such obligations of the Underwriters be terminated for any reason permitted by this Agreement, the Check shall immediately be returned to the Representative. In the event that the Underwriters fails (other than for a reason permitted hereunder) to purchase, accept delivery of and pay for the Obligations at the Closing as herein provided, the Check shall be cashed and the amount thereof retained by the Issuer as and for fully liquidated damages for such failure of the Underwriters, and, except as set forth in Sections 8 and 10 hereof, no party shall have any further rights against the other hereunder. The Underwriters and the Issuer understand that in such event the Issuer's actual damages may be greater or may be less than such amount. Accordingly, the Underwriters hereby waive any right to claim that the Issuer's actual damages are less than such amount, and the Issuer's acceptance of this offer shall constitute a waiver of any right the Issuer may have to additional damages from the Underwriters.

**2. Public Offering.** The Underwriters agree to make a bona fide public offering of all of the Obligations at prices or yields not to exceed the public offering prices or yields set forth on page 4 of the Official Statement and may subsequently change such offering prices or yields without any requirement of prior notice. The Underwriters may offer and sell the Obligations to certain dealers (including dealers depositing Obligations into investment trusts) and others at prices lower than the public offering prices or yields stated on page 4 of the Official Statement.

**3. The Official Statement.**

(a) The Issuer previously has delivered copies of the Preliminary Official Statement dated August \_\_, 2009 (the "*Preliminary Official Statement*") to the Underwriters. The Issuer will prepare a final Official Statement relating to the Obligations, which will be (i) dated the date of this Agreement, (ii) complete within the meaning of the United States Securities and Exchange Commission's Rule 15c2-12, (the "*Rule*"), and (iii) substantially in the form of the most recent version of the Preliminary Official Statement provided to the Underwriters before the execution hereof. Such final Official Statement, including the cover page thereto, all exhibits, appendices, maps,

charts, pictures, diagrams, reports, and statements included or incorporated therein or attached thereto, and all amendments and supplements thereto that may be authorized for use with respect to the Obligations, is herein referred to as the “*Official Statement*”. Until the Official Statement has been prepared and is available for distribution, the Issuer shall provide to the Underwriters sufficient quantities (which may be in electronic mail form) of the Preliminary Official Statement as the Representative deems necessary to satisfy the obligations of the Underwriters under the Rule with respect to distribution to each potential customer, upon request, of a copy of the Preliminary Official Statement.

(b) The Preliminary Official Statement has been prepared for use by the Underwriters in connection with the public offering, sale and distribution of the Obligations. The Issuer hereby represents and warrants that the Preliminary Official Statement was deemed final by the Issuer as of its date, except for the omission of such information which is dependent upon the final pricing of the Obligations for completion, all as permitted to be excluded by Section (b)(1) of the Rule.

(c) The Issuer hereby authorizes the Official Statement and the information therein contained to be used by the Underwriters in connection with the public offering and the sale of the Obligations. The Issuer consents to the use by the Underwriters prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Obligations. The Issuer shall provide, or cause to be provided, to the Underwriters as soon as practicable after the date of the Issuer’s acceptance of this Agreement (but in any event, not later than within seven (7) business days after the Issuer’s acceptance of this Agreement and in sufficient time to accompany any confirmation that requests payment from any customer) copies of the Official Statement which are complete as of the date of their delivery to the Underwriters in such quantity as the Representative shall request in order for the Underwriters to comply with Section (b)(4) of the Rule and the rules of the Municipal Securities Rulemaking Board (“MSRB”).

(d) If, after the date of this Agreement to and including the date the Underwriters are no longer required to provide an Official Statement to potential customers who request the same pursuant to the Rule the earlier of (i) ninety (90) days from the “end of the underwriting period” (as defined in the Rule) and (ii) the time when the Official Statement is available to any person from MSRB, but in no case less than twenty-five (25) days after the “end of the underwriting period” for the Obligations), the Issuer becomes aware of any fact or event which might or would cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, the Issuer will notify the Representative (and for the purposes of this clause provide the Representative with such information as the Representative may from time to time request), and if, in the opinion of the Representative, such fact or event requires preparation and publication of a supplement or amendment to the Official Statement, the Issuer will forthwith prepare and furnish, at the Issuer’s own expense (in a form and manner approved by the Underwriters), a reasonable number of copies of either amendments or supplements to the Official Statement so that

the statements in the Official Statement as so amended and supplemented will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or so that the Official Statement will comply with law. If such notification shall be subsequent to the Closing, the Issuer shall furnish such legal opinions, certificates, instruments and other documents as the Representative may deem necessary to evidence the truth and accuracy of such supplement or amendment to the Official Statement.

(e) The Underwriters hereby agree to file the Official Statement with the MSRB. Unless otherwise notified in writing by the Underwriters, the Issuer can assume that the “end of the underwriting period” for purposes of the Rule is the date of the Closing.

**4. Representations, Warranties and Covenants of the Issuer.** The Issuer hereby represents and warrants to and covenants with the Underwriters that:

(a) The Issuer is a home rule city duly created and existing under the laws of the State of Texas (the “*State*”), including specifically Article XI, Section 5 of the State Constitution, and is issuing the Obligations pursuant to the provisions of Subchapter C of Chapter 271, Texas Local Government Code, as amended, (the “*Act*”), and its home rule charter (the “*Charter*”) and has full legal right, power and authority under the Acts and the Charter, and at the date of the Closing will have full legal right, power and authority (1) to enter into, execute and deliver this Agreement, the Ordinance, and the Continuing Disclosure Undertaking (as defined in Section 6(i)(3) hereof), and all documents required hereunder and thereunder to be executed and delivered by the Issuer (this Agreement, the Ordinance (including the Continuing Disclosure Undertaking), and the other documents referred to in this clause (a) are hereinafter referred to as the “*Issuer Documents*”), (2) to sell, issue and deliver the Obligations to the Underwriters as provided herein, and (3) to carry out and consummate the transactions contemplated by the Issuer Documents and the Official Statement, and the Issuer has complied, and will at the Closing be in compliance in all respects, with the terms of the Acts, the Charter and the Issuer Documents as they pertain to such transactions;

(b) By all necessary official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has duly authorized all necessary action to be taken by it for (i) the adoption of the Ordinance and the issuance and sale of the Obligations, (ii) the approval, execution and delivery of, and the performance by the Issuer of the obligations on its part, contained in the Obligations and the Issuer Documents and (iii) the consummation by it of all other transactions contemplated by the Official Statement and the Issuer Documents and any and all such other agreements and documents as may be required to be executed, delivered and/or received by the Issuer in order to carry out, give effect to, and consummate the transactions contemplated herein and in the Official Statement;

(c) The Issuer Documents constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity

relating to or affecting the enforcement of creditors' rights; the Obligations, when issued, delivered and paid for, in accordance with the Ordinance and this Agreement, will constitute legal, valid and binding obligations of the Issuer entitled to the benefits of the Ordinance and enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and principles of equity relating to or affecting the enforcement of creditors' rights; and upon the issuance, authentication and delivery of the Obligations as aforesaid, the Ordinance will provide, for the benefit of the holders, from time to time, of the Obligations, the legally valid and binding pledge of and lien they purport to create as set forth in the Ordinance;

(d) On the date hereof and during the period that the Official Statement is subject to amendment or supplement pursuant to Section 3(d) hereof, the Issuer is not in breach of or default in any material respect under any applicable constitutional provision, law or administrative regulation of the State or the United States or any applicable judgment or decree that would have a material adverse effect upon the operations or financial condition of the Issuer; or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is otherwise subject, and no event has occurred and is continuing which constitutes or with the passage of time or the giving of notice, or both, would constitute a default or event of default by the Issuer under any of the foregoing; and the execution and delivery of the Obligations, the Issuer Documents and the adoption of the Ordinance and compliance with the provisions on the Issuer's part contained therein, will not conflict with or constitute a breach of or default under any constitutional provision, law or administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or to which the Issuer is otherwise subject or under the terms of any such law, regulation or instrument, except as provided by the Obligations and the Ordinance;

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matters which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Issuer of its obligations under the Issuer Documents and the Obligations have been duly obtained or will be obtained prior to Closing, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any jurisdiction in connection with the offering and sale of the Obligations;

(f) The Obligations and the Ordinance conform to the descriptions thereof contained in the Official Statement under the captions "OBLIGATION INFORMATION"; the proceeds of the sale of the Obligations will be applied generally as described in the Official Statement under the caption "OBLIGATION INFORMATION" and the Continuing Disclosure Undertaking conforms to the description thereof contained in the Official Statement under the caption "CONTINUING DISCLOSURE OF INFORMATION";

(g) Except as otherwise provided in the Official Statement under the caption “CONTINUING DISCLOSURE OF INFORMATION – Compliance with Prior Undertakings”, during the last five (5) years the Issuer has complied in all material respects with its previous Continuing Disclosure Undertakings made by it in accordance with the Rule;

(h) On the date hereof and during the period that the Official Statement is subject to amendment or supplement pursuant to Section 3(d) hereof, there is no legislation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best knowledge of the Issuer after due inquiry, threatened against the Issuer, affecting the existence of the Issuer or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Obligations or the collection of taxes or revenues pledged to the payment of principal of and interest on the Obligations pursuant to the Ordinance or in any way contesting or affecting the validity or enforceability of the Obligations or the Issuer Documents, or contesting the exclusion from gross income of interest on the Obligations for federal income tax purposes, or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto, or contesting the powers of the Issuer or any authority for the issuance of the Obligations, the adoption of the Ordinance or the execution and delivery of the Issuer Documents, nor, to the best knowledge of the Issuer, is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Obligations or the Issuer Documents;

(i) As of the date thereof, the Preliminary Official Statement did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) At the time of the Issuer’s acceptance hereof and (unless the Official Statement is amended or supplemented pursuant to paragraph (d) of Section 3 of this Agreement) at all times subsequent thereto during the period up to and including the twenty-fifth (25th) day subsequent to the “end of the underwriting period,” the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(k) If the Official Statement is supplemented or amended pursuant to paragraph (d) of Section 3 of this Agreement, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and the including twenty-fifth (25th) day subsequent to the “end of the underwriting period”, the Official Statement as so supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which made, not misleading;

(l) The Issuer will apply, or cause to be applied, the proceeds from the sale of the Obligations as provided in and subject to all of the terms and provisions of the Ordinance and will not take or omit to take any action which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Obligations;

(m) The Issuer will furnish such information and execute such instruments and take such action in cooperation with the Representative as the Representative may reasonably request, at no expense to the Issuer, (1) to (i) qualify the Obligations for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Representative may designate and (ii) determine the eligibility of the Obligations for investment under the laws of such states and other jurisdictions and (2) to continue such qualifications in effect so long as required for the initial distribution of the Obligations by the Underwriters (provided, however, that the Issuer will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any jurisdiction) and will advise the Representative immediately of receipt by the Issuer of any notification with respect to the suspension of the qualification of the Obligations for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose;

(n) The financial statements of, and other financial information regarding, the Issuer in the Official Statement fairly present the financial position, results of operations and condition of the Issuer as of the dates and for the periods therein set forth, and there has been no adverse change of a material nature in such financial position, results of operations or condition, financial or otherwise, of the Issuer since the dates of such statements and information;

(o) The Issuer is not a party to any litigation or other proceeding pending or, to its knowledge, threatened which, if decided adversely to the Issuer, would have a materially adverse effect on the financial condition of the Issuer;

(p) Prior to the Closing, and except in the ordinary course of business, the Issuer will not offer or issue any bonds, notes or other obligations for borrowed money (other than Issuer's Public Improvement Bonds, Series 2009A, the Public Improvement Bonds, Taxable Series 2009B (Direct Subsidy-Build America Bonds); the Public Property Finance Certificates of Obligation, Series 2009) or incur any material liabilities, direct or contingent, payable from or secured by any of the taxes or assets which will secure the Obligations without the prior written approval of the Representative;

(q) The Issuer, to the extent heretofore requested by the Representative, has delivered to the Underwriters true, correct, complete, and legible copies of all information, applications, reports, or other documents of any nature whatsoever submitted to any rating agency for the purpose of obtaining a rating for the Obligations or to any municipal bond insurance company to obtain a municipal bond insurance policy on the Obligations and, in each instance, true, correct, complete, and legible copies of all correspondence or other communications relating, directly or indirectly, thereto;

(r) Any certificate, signed by any official of the Issuer authorized to do so in connection with the transactions contemplated by this Agreement, shall be deemed a representation and warranty by the Issuer to the Underwriters as to the statements made therein; and

(s) The Issuer covenants that between the date hereof and the Closing it will take no actions which will cause the representations and warranties made in this Section to be untrue as of the Closing.

By delivering the Official Statement to the Representative, the Issuer shall be deemed to have reaffirmed, with respect to such Official Statement, the representations, warranties and covenants set forth above with respect to the Preliminary Official Statement.

**5. Closing.**

(a) At 10:00 a.m. Austin, Texas, time, on September 24, 2009, or at such other time and date as shall have been mutually agreed upon by the Issuer and the Representative (the “*Closing*”), the Issuer will, subject to the terms and conditions hereof, deliver the Obligations to the Representative duly executed and authenticated, together with the other documents hereinafter mentioned, and the Representative will, subject to the terms and conditions hereof, accept such delivery and pay the purchase price of the Obligations as set forth in Section 1 of this Agreement in immediately available funds by wire transfer to the accounts of the Issuer as indicated by Wells Fargo Bank, N.A. (the “*Paying Agent/Registrar*”). Payment for the Obligations as aforesaid shall be made at the offices of the Paying Agent/Registrar or such other place as shall have been mutually agreed upon by the Issuer and the Representative.

(b) Delivery of the Obligations shall be made to The Depository Trust Company, New York, New York (“*DTC*”). The Obligations shall be delivered in definitive fully registered form, bearing CUSIP numbers without coupons, with one Certificate for each maturity of the Obligations registered in the name of Cede & Co., all as provided in the Ordinance and shall be made available to the Underwriters at least one business day before Closing for purposes of inspection.

**6. Closing Conditions.** The Representative has entered into this Agreement in reliance upon the representations, warranties and agreements of the Issuer contained herein, and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriters’ obligations under this Agreement to purchase, to accept delivery of and to pay for the Obligations shall be conditioned upon the performance by the Issuer of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions, including the delivery by the Issuer of such documents as are enumerated herein, in form and substance reasonably satisfactory to the Representative:



(a) The representations and warranties of the Issuer contained herein shall be true, complete and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing;

(b) The Issuer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing;

(c) At the time of the Closing, (i) the Issuer Documents and the Obligations shall be in full force and effect in the form heretofore approved by the Representative and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Representative; (ii) the net proceeds of the sale of the Obligations and any funds to be provided by the Issuer shall be deposited and applied as described in the Official Statement and in the Ordinance and (iii) all actions of the Issuer required to be taken by the Issuer shall be performed in order for Bond Counsel and counsel to the Underwriters to deliver their respective opinions referred to hereafter;

(d) At the time of the Closing, all official action of the Issuer relating to the Obligations and the Issuer Documents shall be in full force and effect and shall not have been amended, modified or supplemented;

(e) At or prior to the Closing, the Ordinance shall have been duly executed and delivered by the Issuer and the Issuer shall have duly executed and delivered and the Paying Agent/Registrar shall have duly authenticated the Obligations;

(f) At the time of the Closing, there shall not have occurred any change or any development involving a prospective change in the condition, financial or otherwise, or in the revenues or operations of the Issuer, from that set forth in the Official Statement that in the judgment of the Representative is material and adverse and that makes it, in the judgment of the Representative, impracticable to market the Obligations on the terms and in the manner contemplated in the Official Statement;

(g) The Issuer shall not have failed to pay principal or interest when due on any of its outstanding obligations for borrowed money;

(h) All steps to be taken and all instruments and other documents to be executed, and all other legal matters in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory in legal form and effect to the Representative and to counsel for the Underwriters; and

(i) At or prior to the Closing, the Underwriters shall have received copies of each of the following documents:

(1) The Official Statement, and each supplement or amendment thereto, if any, as may have been agreed to by the Representative;

(2) Copies of the Ordinance, certified as having been duly adopted and in full force and effect, with such supplements or amendments as may have been agreed to by the Representative;

(3) The undertaking of the Issuer set forth in the Ordinance (the “*Continuing Disclosure Undertaking*”) which satisfies the requirements of Section (b)(5)(i) of the Rule;

(4) The approving opinion of McCall, Parkhurst & Horton L.L.P., Austin, Texas (“*Bond Counsel*”), with respect to the Obligations, in substantially the forms attached to the Official Statement;

(5) A supplemental opinion of Bond Counsel addressed to the Issuer and the Representative substantially to the effect that:

(i) the Ordinance has been duly adopted and is in full force and effect;

(ii) the Obligations are exempt securities that do not require registration under the Securities Act of 1933, as amended (the “*1933 Act*”), and the Trust Indenture Act of 1939, as amended (the “*Trust Indenture Act*”), and it is not necessary, in connection with the offering and sale of the Obligations, to register the Obligations under the 1933 Act or to qualify the Ordinance under the Trust Indenture Act; and

(iii) the statements and information contained in the Official Statement under the captions “OBLIGATION INFORMATION” (except for the subcaption “Remedies,” and “Book-Entry-Only System”), “CONTINUING DISCLOSURE OF INFORMATION” (except for the paragraph captioned “Compliance with Prior Undertakings”), “TAX MATTERS,” “OTHER RELEVANT INFORMATION - Registration and Qualification,” “OTHER RELEVANT INFORMATION - Legal Investments and Eligibility to Secure Public Funds in Texas,” and “OTHER RELEVANT INFORMATION – Legal Opinions and No-Litigation Certificate,” and APPENDIX C – “Forms of Bond Counsel’s Opinions” fairly and accurately summarize the matters purported to be summarized therein and are correct as to matter of law, and the descriptions of the Ordinance and the Obligations in the Official Statement present a fair description for the purposes intended.

(6) An opinion, dated the date of the Closing and addressed to the Representative, of counsel to the Underwriters, to the effect that:

(i) the Obligations are exempt securities under the 1933 Act and the Trust Indenture Act and it is not necessary, in connection with the offering and sale of the Obligations, to register the Obligations under the 1933 Act and the Ordinance need not be qualified under the Trust Indenture Act; and

(ii) based upon their participation in the preparation of the Official Statement as counsel for the Underwriters and their participation at conferences at which the Official Statement was discussed, but without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, such counsel has no reason to believe that the Official Statement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (except for any financial, forecast, technical and statistical statements and data included in the Official Statement and the information regarding DTC and its book-entry-only system, as to which no view need be expressed);

(7) A certificate, dated the date of the Closing, of an appropriate official of the Issuer to the effect that (i) the representations and warranties of the Issuer contained herein are true and correct in all material respects on and as of the date of the Closing as if made on the date of the Closing; (ii) no litigation, proceeding or tax challenge against the Issuer is pending or, to the best of his or her knowledge, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the council members, officers or officials of the Issuer to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Issuer, (c) contest the validity, due authorization and execution of the Obligations or the Issuer Documents or (d) attempt to limit, enjoin or otherwise restrict or prevent the Issuer from functioning and collecting taxes or revenues, including payments on the Obligations, pursuant to the Ordinance, and other income or the levy or collection of the taxes pledged or to be pledged to pay the principal of and interest on the Obligations, or the pledge thereof; (iii) all official action of the Issuer relating to the Official Statement, the Obligations and the Issuer Documents have been duly taken by the Issuer, are in full force and effect and have not been modified, amended, supplemented or repealed; (iv) to the best of his or her knowledge, no event affecting the Issuer has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein, in light of the circumstances under which made, not misleading in any respect as of the time of the Closing, and the information contained in the Official Statement is correct in all material respects and, as of the date of the Official Statement did not, and as of the date of the Closing does not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; and (v) there has not been any material adverse change in the financial condition of the Issuer since September 30, 2008, the latest date as of which audited financial information is available;

(8) A certificate of the Issuer in form and substance satisfactory to Bond Counsel and counsel to the Underwriters (a) setting forth the facts,

estimates and circumstances in existence on the date of the Closing, which establish that it is not expected that the proceeds of the Obligations will be used in a manner that would cause the Obligations to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and any applicable regulations (whether final, temporary or proposed), issued pursuant to the Code, and (b) certifying that to the best of the knowledge and belief of the Issuer there are no other facts, estimates or circumstances that would materially change the conclusions, representations and expectations contained in such certificate;

(9) The approving opinion of the Attorney General of the State of Texas and the registration certificates of the Comptroller of Public Accounts of the State of Texas in respect of the Obligations;

(10) Any other certificates and opinions required by the Ordinance for the issuance thereunder of the Obligations;

(11) Evidence of ratings assigned to the Obligations of “\_\_\_” by Fitch Ratings, of “\_\_\_” by Moody’s Rating Services and “\_\_\_” by Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc. and that all such ratings are in effect as of the date of the Closing; and

(12) Such additional legal opinions, certificates, instruments and other documents as Bond Counsel, the Representative or counsel to the Underwriters may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the Issuer’s representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the Issuer on or prior to the date of the Closing of all the respective agreements then to be performed and conditions then to be satisfied by the Issuer.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Representative.

If the Issuer shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Obligations contained in this Agreement, or if the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Obligations shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Underwriters nor the Issuer shall be under any further obligation hereunder, except that the respective obligations of the Issuer and the Underwriters set forth in Sections 1 (with respect to the Check), 4 and 8 hereof shall continue in full force and effect.

**7. Termination.** The Underwriters shall have the right to cancel their obligation to purchase the Obligations if, between the date of this Agreement and the Closing, the market

price or marketability of the Obligations shall be materially adversely affected, in the sole judgment of the Representative, reasonably exercised, by the occurrence of any of the following:

(a) legislation shall be enacted by or introduced in the Congress of the United States or recommended to the Congress for passage by the President of the United States, or the Treasury Department of the United States or the Internal Revenue Service or any member of the Congress of the United States or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed, the effect of any or all of which would be to impose, directly or indirectly, federal income taxation upon interest received on obligations of the general character of the Obligations, of the interest on the Obligations as described in the Official Statement, or other action or events shall have transpired which may have the purpose or effect, directly or indirectly, of changing the federal income tax consequences of any of the transactions contemplated herein;

(b) legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Obligations, including any or all underlying arrangements, are not exempt from registration under or other requirements of the 1933 Act, or that the Ordinance is not exempt from qualification under or other requirements of the Trust Indenture Act, or that the issuance, offering or sale of obligations of the general character of the Obligations, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities laws as amended and then in effect;

(c) any state blue sky or securities commission or other governmental agency or body shall have withheld registration, exemption or clearance of the offering of the Obligations as described herein, or issued a stop order or similar ruling relating thereto;

(d) a general suspension of trading in securities on the New York Stock Exchange or the American Stock Exchange, the establishment of minimum prices on either such exchange, the establishment of material restrictions (not in force as of the date hereof) upon trading securities generally by any governmental authority or any national securities exchange, or a general banking moratorium declared by federal, State of New York, or State officials authorized to do so;

(e) the New York Stock Exchange or other national securities exchange or any governmental authority shall impose, as to the Obligations or as to obligations of the general character of the Obligations, any material restrictions not now in force, or

increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriters;

(f) any amendment to the federal or state Constitution or action by any federal or state court, legislative body, regulatory body or other authority materially adversely affecting the tax status of the Issuer, its property, income, securities (or interest thereon), or the validity or enforceability of the assessments or the levies of taxes to pay principal of and interest on the Obligations;

(g) any event occurring, or information becoming known which, in the judgment of the Representative, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(h) there shall have occurred since the date of this Agreement any materially adverse change in the affairs or financial condition of the Issuer, except for changes which the Official Statement discloses are expected to occur;

(i) the United States shall have either become engaged in hostilities that did not exist prior to the date hereof or issued a declaration of war or a national emergency, or there shall have occurred a new material outbreak or escalation of hostilities or a national or international calamity or crisis, financial or otherwise;

(j) any fact or event shall exist or have existed that, in the Underwriters' reasonable judgment, requires or has required an amendment of or supplement to the Official Statement;

(k) here shall have occurred any downgrading, or any notice shall have been given of any intended or potential downgrading in the rating accorded any of the Issuer's obligations (including the rating to be accorded the Obligations); and

(l) the purchase of and payment for the Obligations by the Underwriters, or the resale of the Obligations by the Underwriters, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

## **8. Expenses.**

(a) The Underwriters shall be under no obligation to pay, and the Issuer shall pay, any expenses incident to the performance of the Issuer's obligations hereunder, including, but not limited to (i) the cost of preparation and printing of the Obligations; (ii) the fees and disbursements of Bond Counsel and the Issuer's Financial Advisor; (iii) the fees and disbursements of any other engineers, accountants, and other experts, consultants or advisers retained by the Issuer; (iv) the fees for bond ratings; (v) the costs of preparing, printing and mailing the Preliminary Official Statement and the Official Statement; (vi) the fees and expenses of the Paying Agent/Registrar; (vii) advertising

expenses (except any advertising expenses of the Underwriters as set forth below); (viii) the out-of-pocket, miscellaneous and closing expenses, including the cost of travel, of the officers and members of the Issuer; (ix) the Attorney General's review fee; and (x) any other expenses mutually agreed to by the Issuer and the Underwriters to be reasonably considered expenses of the Issuer which are incident to the transactions contemplated hereby.

(b) The Underwriters shall pay (i) the cost of preparation and printing of this Agreement, the Blue Sky Survey and Legal Investment Memorandum, if any; (ii) all advertising expenses in connection with the public offering of the Obligations; and (iii) all other expenses incurred by it in connection with the public offering of the Obligations, including the fees and disbursements of counsel retained by the Underwriters.

(c) If this Agreement shall be terminated by the Underwriters because of any failure or refusal on the part of the Issuer to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Issuer shall be unable to perform its obligations under this Agreement, the Issuer will immediately return the Check to the Underwriters and there shall be no further obligation of the Issuer to the Underwriters.

9. **Notices.** Any notice or other communication to be given to the Issuer under this Agreement may be given by delivering the same in writing to City of Austin, Texas, 700 Lavaca, Suite 1510, Austin, Texas 78701, Attention: Treasurer; and, any notice or other communication to be given to the Underwriters under this Agreement may be given by delivering the same in writing to J.P. Morgan Securities, Inc., 2200 Ross Avenue, 8th Floor, Dallas, Texas, Attention: Lance Etcheverry.

10. **Parties in Interest.** This Agreement as heretofore specified shall constitute the entire agreement between us and is made solely for the benefit of the Issuer and the Underwriters (including successors or assigns of the Underwriters) and no other person shall acquire or have any right hereunder or by virtue hereof. This Agreement may not be assigned by the Issuer. All of the Issuer's representations, warranties and agreements contained in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigations made by or on behalf of the Underwriters; (ii) delivery of and payment for the Obligations pursuant to this Agreement; and (iii) any termination of this Agreement.

11. **Effectiveness.** This Agreement shall become effective upon the acceptance hereof by the Issuer and shall be valid and enforceable at the time of such acceptance.

12. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State.

13. **Severability.** If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision or provisions of any constitution, statute, rule of public policy or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative

or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

**14. Business Day.** For purposes of this Agreement, “business day” means any day on which the New York Stock Exchange is open for trading.

**15. Section Headings.** Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

**16. Counterparts.** This Agreement may be executed in several counterparts each of which shall be regarded as an original (with the same effect as if the signatures thereto and hereto were upon the same document) and all of which shall constitute one and the same document.

*[Execution Page Follows.]*



If you agree with the foregoing, please sign the enclosed counterpart of this Agreement and return it to the Representative. This Agreement shall become a binding agreement between the Issuer and the Underwriters when at least the counterpart of this letter shall have been signed by or on behalf of each of the parties hereto.

J.P. MORGAN SECURITIES INC., as  
Representative of the Underwriters identified on  
Schedule I hereto

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACCEPTED at \_\_\_\_\_[a.m./p.m.] central time this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Schedule I - List of Underwriters  
Schedule II - Schedule of Terms

**Schedule I**

**List of Underwriters**

J.P. Morgan Securities Inc.

Estrada Hinojosa & Company, Inc.

First Southwest Company

Goldman, Sachs & Co.

Merrill Lynch & Co.

Ramirez & Co., Inc.

RBC Capital Markets

**Schedule II**

\$ \_\_\_\_\_

City of Austin

**Public Property Finance Contractual Obligations  
Series 2009**

Interest Accrues From:      Date of Delivery

\$ \_\_\_\_\_ Serial Obligations

<b>Maturity Date (9/1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Initial Price or Yield</b>
2010			
2011			
2012			
2013			
2014			
2015			
2016			
2017			
2018			
2019			

\$ \_\_\_\_\_ \_\_. \_\_% Term Obligations, Due September 1, 20\_\_ Price \_\_. \_\_%<sup>(a)(b)</sup>

- (a) The Obligations maturing on and after September 1, 2020, are subject to redemption, in whole or in part, at the option of the Issuer, at the par value thereof plus accrued interest on September 1, 2019, or any date thereafter.
- (b) The Term Obligations scheduled to mature on September 1, 20\_\_ are also subject to mandatory sinking fund redemption in accordance with the following schedule:

<b>Mandatory Redemption Date</b>	<b>Principal Amount</b>
September 1, 20__	
September 1, 20__	
September 1, 20__	
September 1, 20__*	

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\* Stated maturity.